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P.O. BOX 1022  
MINNEAPOLIS MN 55440-1022

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AUG 24 2009

OFFICE OF PETITIONS

In re Patent No. 6,972,775 :  
Issue Date: December 6, 2005 :  
Application No. 09/603,422 : DECISION ON PETITION  
Filed: June 26, 2000 :  
Attorney Docket No. 11328-006001 :

This is a decision on the petition under 37 CFR 1.181 (no fee), filed June 26, 2009, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The petition is **DISMISSED**.

Petitioner states that the original Letters Patent was never received.

The Office follows the guidelines set forth in MPEP § 711.03(c) (*see also* "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993), which sets forth that, in the absence of any irregularity in the mailing of an Office action (in this case, the Letters Patent), there is a strong presumption that the Office action (Letters Patent) was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Letters Patent was not in fact received. In this regard, the showing required to establish the failure to receive the Letters Patent must consist of the following:

1. a statement from practitioner stating that the Letters Patent was not received by the practitioner;
2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Letters Patent was not received; and
3. a copy of the docket record where the nonreceived Letters Patent would have been entered had it been received must be attached to and referenced in the practitioner's statement.

The petition is not accompanied by the evidence required to establish nonreceipt of the original Letters Patent. In this regard, petitioner has not provided items 2 or 3 above. Office records reflect that the Letters Patent was mailed to the address of record at the time; namely, FISH & RICHARDSON PC. The evidence submitted does not establish nonreceipt of the Letters Patent at that address.

In view of the above, the petition fails to provide the necessary evidence to establish nonreceipt of the Letters Patent. Accordingly, the petition for issuance of a duplicate Letters Patent under 37 CFR 1.181 cannot be granted at this time.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Further correspondence with respect to this matter should be addressed as follows:

By Mail:                   Mail Stop PETITION  
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By facsimile:             **(571) 273-8300**  
                                 Attn: Office of Petitions

By hand:                   U. S. Patent and Trademark Office  
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                                 401 Dulany Street  
                                 Alexandria, VA 22314

Telephone inquiries concerning this decision should be directed to Terri Williams at (571) 272-2991.



Chris Bottorff  
Petitions Examiner  
Office of Petitions

cc:    **FISH & RICHARSON P.C.**  
        **225 FRANK STREET**  
        **BOSTON, MA 02110**